

# **EXHIBIT 17**

*PACIFIC ALLIANCE ASIA OPPORTUNITY FUND L.P. vs.  
KWOK HO WAN*

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*MICHAEL ULLMAN  
September 24, 2018*

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126 East 56th Street, Fifth Floor New York, New York 10022

P: 212-750-6434 F: 212-750-1097

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1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF NEW YORK

3 -----X  
PACIFIC ALLIANCE ASIA OPPORTUNITY FUND L.P.,

4 Plaintiff,

5 - against -

6 KWOK HO WAN, a/k/a KWOK HO, a/k/a GWO WEN GUI,  
7 a/k/a GUO WENGUI, a/k/a GUO WEN-GUI, a/k/a WAN  
GUE HAOYUN, a/k/a MILES KWOK, a/k/a HAOYUN GUY,

8 Defendant.

9 Index No.: 652077/2017

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10  
11 7 Times Square  
12 New York, New York

13 September 24, 2018  
14 11:25 a.m.

15 VIDEOTAPED EXAMINATION BEFORE TRIAL  
16 of MICHAEL ULLMAN, before Melissa Gilmore, a  
17 Shorthand Reporter and Notary Public of the  
18 State of New York.

19  
20  
21  
22  
23 ELLEN GRAUER COURT REPORTING CO., LLC  
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A P P E A R A N C E S:

O'MELVENY & MYERS LLP

Attorneys for Plaintiff

7 Times Square

New York, New York 10036

BY: EDWARD MOSS, ESQ.

STUART SARNOFF, ESQ.

SARA N. PAHLAVAN, ESQ.

PHONE 212-728-5651

E-MAIL emoss@omm.com

ssarnoff@omm.com

spahlavan@omm.com

HODGSON RUSS

Attorneys for Defendant

605 Third Avenue, Suite 2300

New York, New York 10158

BY: JILLIAN MARIE SEARLES, ESQ.

PHONE 646-218-7591

E-MAIL jsearles@hodgsonruss.com

A P P E A R A N C E S: (Cont'd)

STROOCK & STROOCK & LAVAN LLP

Attorneys for the Witness

180 Maiden Lane

New York, New York 10038-4982

BY: EVA TALEL, ESQ.

PHONE 212-806-5828

E-MAIL etalel@stroock.com

ALSO PRESENT:

ADAM VENTURINI, Videographer

1 ULLMAN

2 these were also assets that were not in the  
3 United States, correct?

4 A. That's correct.

5 Q. And these were assets that Mr. Kwok  
6 held not personally but held through a company?

7 A. Correct.

8 Q. So if you look at the consolidated  
9 balance sheet at SN 0060, there is total assets  
10 of 23 billion RMBs, which I think is over about  
11 \$3 billion.

12 Does that sound right?

13 A. I think it's divided by six,  
14 something like that. So, yeah, three to  
15 \$4 billion.

16 Q. Three to four. Let's look at the  
17 Williams & Connolly letter, SN 0063. The  
18 second page of this, which is the last  
19 paragraph, "Both Mr. Kwok," do you see that  
20 where I'm reading?

21 A. Yes.

22 Q. "Both Mr. Kwok and we very much  
23 appreciate your consideration in this matter.  
24 Mr. Kwok is eager to become a resident at The  
25 Sherry but also feels keenly the need for

1 ULLMAN

2 confidentiality regarding his business and  
3 financial affairs."

4 Do you see that?

5 A. Yes.

6 Q. Do you remember developing -- the  
7 understanding around this time that Mr. Kwok  
8 was very interested in keeping his business and  
9 financial affairs secret?

10 A. Yes.

11 Q. And is that typical in your  
12 experience with purchasers?

13 A. No.

14 Q. Do you recall ever before getting a  
15 letter from a law firm explicitly telling you  
16 to -- to -- you know, that its client had a  
17 very strong desire for confidentiality?

18 A. No.

19 Q. Do you recall having any reaction to  
20 reviewing this or generally to learning about  
21 Mr. Kwok's strong desire for confidentiality?

22 A. There was -- there was a strong  
23 desire -- I believe we were told -- I heard,  
24 maybe I was told by the broker, his broker,  
25 that because of Feng Shui, or whatever, it had

1 ULLMAN

2 to close by a certain date, and they were  
3 pushing. And if memory serves me, it was  
4 around April 6 -- 6 to 8, something like that,  
5 it had to close because of whatever Feng Shui  
6 issues were involved.

7 Q. And just for the record, do you have  
8 an understanding as to what Feng Shui is?

9 A. Well, I only understand it in the  
10 way that it's used in positioning of  
11 furnishings and other items in a room and an  
12 apartment, you know, in relation to north,  
13 east, south, west, whatever. Yes, that is my  
14 understanding of it.

15 It has never been my understanding  
16 of my limited knowledge of Feng Shui about  
17 dates of a closing.

18 Q. Do you remember having any reaction  
19 to the fact that Mr. Kwok wanted to close very  
20 quickly because of Feng Shui reasons?

21 A. My reactions would be irrelevant to  
22 any of this because it was up to the board to  
23 decide whether they wanted to do that or not or  
24 wanted to accommodate him.

25 Did I personally think it was odd?



1 ULLMAN

2 Yes.

3 Q. So let's go back to Exhibit 1,  
4 please.

5 A. Exhibit 1.

6 Q. Which is the Susan Hennelly letter  
7 that you signed.

8 A. Yes.

9 Q. I want to focus your attention,  
10 please, on the fourth paragraph, "Due to  
11 Mr. Kwok's foreign status and purchasing in an  
12 LLC, he will be required to sign an occupancy  
13 agreement and personally guarantee the lease.  
14 He will also be required to provide a security  
15 deposit."

16 Can you explain what you mean in  
17 this -- in these two sentences?

18 A. He wanted to put it -- A, he's  
19 foreign. So without assets -- it was assumed  
20 there were no assets in the US that we could  
21 attach if there was an issue with getting the  
22 maintenance payment.

23 Many people put their units in an  
24 LLC, as long as it's a single entity LLC, so  
25 that's the only item that could be in the LLC,

1 ULLMAN

2 and an occupancy agreement was that he was  
3 guaranteeing that he and his -- he and/or his  
4 family were going to be the sole occupants of  
5 the apartment.

6 And he personally guarantees the  
7 lease, which would kind of blend in with the  
8 next sentence requiring a security deposit,  
9 which the board determined that, after  
10 discussion and looking at his finances and  
11 seeing that there were no assets in the US that  
12 we could use to protect ourselves, they decided  
13 that five years of maintenance would be  
14 something that would protect us long enough  
15 that if he didn't pay, and we had to go through  
16 the eviction and sale process, we would have  
17 enough backup to carry us from an operating  
18 point of view to cover us and make us whole  
19 until a sale could be consummated.

20 Q. And did you understand that, if you  
21 had to chase Mr. Kwok for nonpayment, the fact  
22 that he was purchasing in an LLC as opposed to  
23 his individual capacity might make it harder  
24 for you to get to Mr. Kwok's personal assets?

25 A. I'm sure Stroock advised us on that,

1 ULLMAN

2 yes.

3 Q. One thing I just want to make clear  
4 at the deposition is I don't want to invade the  
5 attorney/client privilege in any way. And so I  
6 think we should probably strike that answer,  
7 and let me just try it again.

8 Did you ever have the view or come  
9 to the understanding that the LLC structure of  
10 this would make it harder for Mr. Kwok -- would  
11 make it harder for The Sherry-Netherland to --  
12 strike that. Let me withdraw that and do it  
13 again.

14 Did you ever come to the  
15 understanding, just asking you about your  
16 understanding, that if you had to chase  
17 Mr. Kwok for nonpayment, the fact that he was  
18 purchasing in an LLC as opposed to in his  
19 individual capacity would make it harder for  
20 you to get to Mr. Kwok's personal assets?

21 MS. SEARLES: Objection, calls for a  
22 legal conclusion.

23 Q. You can answer.

24 MS. TALEL: You can answer.

25 A. Yes.

1 ULLMAN

2 Q. So it was the combination of the LLC  
3 and the foreign status, meaning the lack of any  
4 assets in the US, that had made The  
5 Sherry-Netherland want to protect itself?

6 A. Yes.

7 Q. How common is it to require a  
8 personal guarantee in your experience?

9 A. It's common when it's a foreign  
10 purchaser. We almost always require a security  
11 deposit on a foreign purchaser. So the answer  
12 is it's quite common.

13 Q. So I was asking about the personal  
14 guarantee.

15 Is that -- do you sort of think of  
16 the personal guarantee and the security deposit  
17 as going together?

18 A. Yes.

19 Q. How common is it to have a security  
20 deposit in your experience?

21 A. It's common for foreign purchasers  
22 where most of their assets are outside the  
23 United States.

24 Q. And I think you said earlier that  
25 the security deposit required ended up being

1 ULLMAN

2 \$3 million; is that correct?

3 A. I believe it was a little bit more  
4 than \$3 million. I want to say it was between  
5 three three and three five, 3.3 to 3.5 million.

6 Q. And had there ever been, in your  
7 experience at The Sherry-Netherland, a  
8 requirement for a larger security deposit from  
9 any other customer -- from any other  
10 prospective purchaser?

11 A. No.

12 (Ullman Exhibit 3, Answer by The  
13 Sherry-Netherland to the Complaint filed  
14 by Genever Holdings, marked for  
15 identification.)

16 Q. Mr. Ullman, you have Exhibit 3,  
17 which is the answer by The Sherry-Netherland  
18 Hotel to the complaint filed by Genever  
19 Holdings and Miles Kwok in the Southern  
20 District of New York.

21 Do you see that?

22 A. Yes.

23 Q. And is this the answer in the  
24 litigation that we touched briefly on earlier?

25 A. Yes.

1 ULLMAN

2 Q. Take a look at paragraph 39, please.  
3 It's on page 9.

4 A. Yes.

5 Q. And I'm focused on 39(a). It says,  
6 "Plaintiffs and their representatives fully  
7 understood that the deposit was not standard or  
8 customary and was offered by the Plaintiffs as  
9 an inducement to the corporation's board of  
10 directors, the board, to approve the  
11 Plaintiffs' purchase transaction without having  
12 received and reviewed fully documented  
13 information about (i), the size, source and  
14 location of Mr. Kwok's financial resources,  
15 (ii) the character of Mr. Kwok's business  
16 associates, including his relationships with  
17 high government officials in China, and (iii),  
18 whether the government of the People's Republic  
19 of China might have an interest in Mr. Kwok in  
20 connection with the government's  
21 anti-corruption activities."

22 Do you see that?

23 A. Yes.

24 Q. And to the best of your knowledge  
25 and as Sherry-Netherland's representative,

1 ULLMAN

2 that -- that was a true statement when it was  
3 made?

4 A. (Document review.) Yes.

5 Q. And is the reason that you, The  
6 Sherry-Netherland, needed the information that  
7 they say was missing because you wanted to be  
8 able to fully assess Mr. Kwok's ability to meet  
9 his financial obligations to the hotel?

10 A. That's correct.

11 Q. And those were about half a million  
12 dollars per year -- about 600,000?

13 A. 600,000 roughly, yeah.

14 Q. Can you explain why the size, source  
15 and location of Mr. Kwok's financial resources  
16 was important to The Sherry Netherland's  
17 ability to assess Mr. Kwok's ability to meet  
18 his financial obligations?

19 A. Because of the size of the monthly  
20 maintenance charge, it was important to us to  
21 make sure that he could meet that obligation.

22 Q. And the location was important  
23 because it would be difficult to get to assets  
24 that were located abroad?

25 A. Absolutely correct.

1 ULLMAN

2 Q. How about number 2, the character of  
3 Mr. Kwok's business associates? Why was that  
4 important?

5 A. Oh, item number 2 in there, I'm  
6 sorry, the character.

7 Q. No problem.

8 A. Because the board likes to -- likes  
9 to make sure that we have residents that are  
10 congenial and fit into the overall community of  
11 The Sherry and that they are able to meet their  
12 obligations.

13 THE VIDEOGRAPHER: Just to let you  
14 know, we have about 15 minutes left on  
15 this tape.

16 MR. MOSS: Okay. Thank you.

17 THE WITNESS: I know, but I have 15  
18 minutes that I can sit here still before I  
19 need to --

20 MR. SARNOFF: Do you want to take a  
21 break?

22 THE WITNESS: That's -- no, I got 15  
23 minutes.

24 BY MR. MOSS:

25 Q. That's the one, when I went over the



1 ULLMAN

2 ground rules, the one thing I didn't say. I  
3 will take a break whenever you want. Sorry.  
4 So please feel free.

5 A. No, I understand.

6 Q. How about number 3, "whether the  
7 government of the People's Republic of China  
8 might have an interest in Mr. Kwok in  
9 connection with his government's  
10 anti-corruption activities"? Why was that  
11 important?

12 A. I don't recall that being important,  
13 other than he was an upstanding individual  
14 that -- that would meet his obligations in the  
15 building, and I don't recall any more than  
16 that.

17 Q. You mean the hotel wanted to ensure  
18 that he was an upstanding individual?

19 A. Yeah, correct.

20 Q. Would you say that the safeguards  
21 that The Sherry-Netherland required, the  
22 \$3 million plus security deposit, the occupancy  
23 agreement, the personal guarantee, were those  
24 higher safeguards than, in your experience, are  
25 typically required?

1 ULLMAN

2 A. They were higher.

3 Q. Could you ever, in the course of  
4 your 40-year experience, recall a hotel  
5 requiring higher safeguards for a purchase?

6 A. No.

7 Q. Let's now look, the same document,  
8 Mr. Ullman, paragraph 4(d), please.

9 Now, this is a paragraph that's  
10 quoting a March 2 e-mail. And do you recall  
11 earlier that, when we were looking at your  
12 e-mail with the board package, that was a  
13 March 3 e-mail?

14 A. I didn't look at the date, but that  
15 sounds correct.

16 Q. So this references a March 2 e-mail  
17 from Michael Horvitz. He was the co-op board's  
18 president; is that correct?

19 A. Yes.

20 Q. And you see in 4(d), it says in the  
21 third line down, "Horvitz explained in a  
22 March 2 e-mail to Shulman that, because  
23 Plaintiff's financial assets were all located  
24 in China and the documentation provided was  
25 unverified, he had 'concern about the financial

1 ULLMAN

2 information that has been presented'."

3 Do you see that?

4 A. Yes.

5 Q. And that's all consistent with your  
6 recollection, right?

7 A. A hundred percent.

8 Q. And the e-mail continues, "In this  
9 case, you have submitted financial information  
10 that you have identified as having been  
11 'audited,' but there is no accountant's  
12 certification, no statement of the accounting  
13 principles used in the preparation of the  
14 financials, and no detailed description of the  
15 entity to which the financials apply. The  
16 'balance sheet' shows assets only, but not  
17 liabilities, and there is no way for us to  
18 verify that there are no offsetting liabilities  
19 or that [Plaintiff] has immediate access to  
20 these assets should he need them."

21 Do you see that?

22 A. Yes, I do.

23 Q. And is that also a true statement  
24 that's consistent with your recollection?

25 A. Yes, it is.

1 ULLMAN

2 Q. While you have that in front of you,  
3 Mr. Ullman, can you just take a look back at  
4 Exhibit 2?

5 A. Which was Exhibit 2?

6 Q. It should have a sticker at the  
7 bottom.

8 MS. TALEL: This one. (Handing.)

9 A. Okay.

10 Q. And do you see on the first page of  
11 that exhibit it refers to unaudited financial  
12 statements, six lines down?

13 A. (Document review.) I don't see  
14 where it says unaudited. I must not be reading  
15 it.

16 Q. Do you see four lines down, the  
17 sentence that begins with "First"?

18 A. Yes.

19 Q. Okay. So if you read till then,  
20 that sentence --

21 A. Unaudited. Yes, I do see that.

22 Q. And in this e-mail -- excuse me. In  
23 the answer, in the quote of the March 2 e-mail,  
24 Mr. Horvitz says, "In this case, you have  
25 submitted financial information that you

1 ULLMAN

2 Do you see that?

3 A. Yes.

4 Q. And is that consistent with your  
5 understanding that the entity through which  
6 Mr. Kwok made his purchase was a New York LLC?

7 A. Yes.

8 Q. And if you can turn back, please, to  
9 Exhibit 7, and if you look at page 2 -- well,  
10 just to level set you, the definitions are  
11 probably important. Why don't you look at the  
12 first page, please?

13 A. Okay.

14 Q. See Genever Holdings Corporation is  
15 defined as the company?

16 A. (Document review.) Yes.

17 Q. And Genever Holdings LLC is defined  
18 as Genever.

19 Do you see that?

20 A. Yes.

21 Q. And Genever Holdings LLC is the New  
22 York LLC that we just talked about in the other  
23 exhibit, right?

24 A. Yes.

25 Q. So if you see -- now, I think we can

1 ULLMAN

2 turn to page 2, Bates stamped SN 0150. I'm  
3 looking at 2(a) under assumptions, "Genever is  
4 validly organized and validly exists under the  
5 laws of the State of New York and is the  
6 wholly-owned subsidiary of the company."

7 Do see that?

8 A. Yes.

9 Q. And is that consistent with your  
10 recollection that the New York LLC, through  
11 which Kwok made his purchase, was wholly owned  
12 by a British Virgin Islands LLC?

13 A. I don't know.

14 Q. Do you remember anything about  
15 Mr. Kwok purchasing through an LLC that was  
16 owned by another LLC?

17 A. No.

18 Q. During the course of your time at  
19 The Sherry-Netherland in the 40 or so purchases  
20 in which you have been involved, about how many  
21 of those have been purchased through LLCs?

22 A. Probably half.

23 Q. And the other half were purchased by  
24 individuals?

25 A. Yes.

1 ULLMAN

2 Q. And of the 20 or so that were  
3 purchased by LLCs, how many of those LLCs were  
4 New York LLCs?

5 A. I don't know the answer to that  
6 question.

7 Q. Can you ever remember a foreign LLC  
8 purchasing an interest in The  
9 Sherry-Netherland?

10 A. No.

11 Q. So to the best of your recollection,  
12 all of the LLC owners of residences at The  
13 Sherry-Netherland are New York LLCs?

14 A. Yeah, that would -- that would be  
15 accurate, yes.

16 Q. And can you identify any residence  
17 at The Sherry-Netherland Hotel that's owned by  
18 one LLC that, in turn, is owned by another LLC?

19 A. No.

20 Q. So the structure that Mr. Kwok used  
21 here was a unique structure?

22 A. Yes.

23 Q. One that you have never seen before  
24 and never seen since?

25 A. Correct.

1 ULLMAN

2 Q. The security deposit, does that --  
3 does that run down each month? In other words,  
4 when a maintenance payment is due, does the  
5 money come out of the security deposit or does  
6 that security deposit remain a fixed number?

7 A. Remains a fixed number.

8 Q. So the entire three plus million is  
9 left, remains in security?

10 A. Yes.

11 Q. Has there ever been any attempt by  
12 Mr. Kwok or anyone on his behalf to modify or  
13 change the amount of the security deposit?

14 A. Yes.

15 Q. Did they want to increase it or  
16 decrease it?

17 A. They wanted to decrease it.

18 Q. And who communicated that to you?

19 A. I don't recall who it was. I don't  
20 recall which -- which person.

21 Q. Was it Mr. Kwok or was it one of his  
22 intermediaries?

23 A. I believe it was one of his  
24 intermediaries.

25 Q. And do you recall approximately when



1 ULLMAN

2 this request came in?

3 A. Maybe a year and a half ago would  
4 put it 2016, somewhere in 2016, the best of my  
5 recollection, which would be a year and a half  
6 ago.

7 Q. Do you remember how much they wanted  
8 to reduce the security deposit by?

9 A. They didn't say that. They wanted  
10 to be able to use it, I believe, to either do  
11 tenant improvements or to pay their monthly  
12 maintenance out of it. They thought that that  
13 was what it was there for, and we informed them  
14 that was not the case. I informed them it was  
15 not the case.

16 Q. But they hadn't been using it that  
17 way for the first year and a half or so,  
18 correct?

19 A. That's correct.

20 Q. Did they explain to you why they had  
21 the belief, at some point in 2016, that it was  
22 there to be used on a monthly basis?

23 A. Other than it was such a large  
24 amount and they felt that they should be  
25 entitled to use it.

1 ULLMAN

2 Q. What did Mr. Horvitz say about it?

3 A. That we are not going to let them  
4 draw down. The purpose of the security deposit  
5 is just that, security in case they didn't pay.  
6 So there was no -- no reason that we would  
7 allow them to draw that down.

8 Q. Other than Mr. Kwok -- strike that.

9 There are some other tenants or  
10 residents who have security deposit at The  
11 Sherry-Netherland?

12 A. Yes.

13 Q. And other than Mr. Kwok, have any of  
14 the residents with a security deposit asked to  
15 draw down to pay for maintenance or  
16 improvements or for any purpose?

17 A. No.

18 Q. Now, you said -- I just want to see  
19 if I can help you at all on the timing. You  
20 said it was approximately a year and a half ago  
21 and that you think it might be in 2016.

22 It's now September 2018. Do you  
23 think maybe it was early '17 when this came  
24 across?

25 A. Could well have been late '16, early

1 ULLMAN

2 '17. Yeah, 2017 could be, yes.

3 Q. You also testified earlier that  
4 Mr. Kwok was very eager to close in only a few  
5 days; is that right?

6 A. It was a very short period of time.  
7 My memory was refreshed here. I thought it was  
8 April, but it was May 6 that was I think -- I  
9 think what I read in one of these documents,  
10 but I know it was a very short window to close.

11 Q. Exhibit 3, if you can refer back to  
12 Exhibit 3.

13 A. Yeah.

14 Q. Okay. By the way, before we get  
15 there, did you think it was odd at all that  
16 somebody who has supposedly billions of dollars  
17 in assets was making this request to try to  
18 free up the security deposit?

19 MS. SEARLES: Objection, calls for  
20 speculation.

21 MR. MOSS: No, I asked him what he  
22 thought.

23 Q. You can answer.

24 A. Yes.

25 Q. Okay. Exhibit 3. Sorry. Let's go

1 ULLMAN

2 back there.

3 A. Yes, which page am I on?

4 Q. Sure. Paragraph 4(g), which is on  
5 page --

6 A. 3.

7 Q. 3.

8 A. Sorry. 4, page 4.

9 Q. All right. So you see in the  
10 answer, paragraph 4(g) starts, "Notwithstanding  
11 the foregoing, the board's concerns regarding  
12 Plaintiff's finances were heightened because  
13 Plaintiff's representatives informed the board  
14 that it had only three days until March 6 to  
15 review and approve Plaintiff's application or  
16 else Plaintiff would terminate its prospective  
17 purchaser contract."

18 Do you see that?

19 A. Uh-huh.

20 Q. Do you recall that Mr. Kwok and  
21 Mr. Kwok's representative informed the board  
22 that they needed to review and approve his  
23 application within three days or else he would  
24 terminate?

25 A. I do recall that.

1 ULLMAN

2 Q. Did you have any discussions around  
3 that?

4 A. Did I have any discussions around  
5 that? No.

6 Q. Had The Sherry-Netherland ever  
7 received this sort of ultimatum from another  
8 prospective purchaser?

9 A. To the best of my recollection, no.

10 Q. Did you have any view as to why  
11 Mr. Kwok wanted the process to move so quickly?

12 A. Well, the state of -- the stated  
13 reason was what I mentioned earlier, he was  
14 saying that the Feng Shui had had to fit in --  
15 we had no other -- I don't believe we knew any  
16 other reason that he had to close in such a  
17 short period of time or get approved in such a  
18 short period of time.

19 Since it was such a large  
20 transaction, I think the board wanted to  
21 accommodate him to the best of their ability.

22 Q. When you have spoken with Mr. Kwok,  
23 how do you find his English?

24 A. Broken, need to really concentrate  
25 to understand what he's saying.

1 ULLMAN

2 Q. Is your impression that he  
3 understands what you're saying?

4 A. I believe so.

5 Q. We have been talking about concerns  
6 that The Sherry-Netherland had about Mr. Kwok  
7 in 2015.

8 Are you aware of whether Mr. Kwok  
9 has had lawsuits filed against him or  
10 investigations as to him since 2015?

11 A. Yes.

12 Q. And, for example, have you read in  
13 the press that many of his assets have been  
14 frozen across the world?

15 A. Yes.

16 Q. And how, if at all, have your  
17 concerns about the ability to access Mr. Kwok  
18 in the event of a default changed in light of  
19 the legal issues he's facing and the asset  
20 freezing?

21 A. Our concerns is that as long as his  
22 maintenance is paid on a timely basis, we're  
23 concerned, but as long as they're being paid,  
24 we are not alarmed by it, and knowing that we  
25 have this security deposit, which will cover us

1 ULLMAN

2 should this -- should he -- should he stop  
3 paying, we are at least protected for a given  
4 amount of time. So it helps allay some of  
5 our -- some of our concerns.

6 Q. But you still have concerns?

7 A. Of course.

8 Q. And if you didn't have the security  
9 deposit, you would have big concerns, right?

10 A. That's a very true statement.

11 Q. Did there come a time when Mr. Kwok  
12 attempted to transfer the ownership of the  
13 apartment out of his name?

14 A. Yes.

15 Q. And what do you recall about that?

16 A. I recall that -- I think the first  
17 mention of it that I can recall was that his  
18 realtor, who handled the transaction for him of  
19 the purchase who spent I believe a fair amount  
20 of time with him over the course of the --  
21 after the closing, came to my office and asked  
22 how that would work, how they could transfer to  
23 the son and what that procedure would be.

24 Q. Approximately when was that?

25 A. From my notes that I looked back, it

1 ULLMAN

2 was in June, I believe, of 2016.

3 Q. And who asked for that meeting, the  
4 broker or you?

5 A. The broker came to me, Kathy Sloane.

6 Q. And tell me what you recall about  
7 that meeting.

8 A. She asked me, they wanted to  
9 restructure and, you know, she was kind of  
10 vague. She may not have understood the whole  
11 thing herself. I can't vouch for her, but she  
12 came and asked how they could transfer and what  
13 they would need to go through.

14 And I recall telling her, well, if  
15 they want to put it in Milesen's name or in  
16 Milesen in charge of -- in charge of the asset,  
17 they would have -- they would have to go  
18 through the entire process of purchase again,  
19 and he would have to submit letters of  
20 recommendation, updated financials and the  
21 whole package that's required to transfer it.

22 Q. Did Ms. Sloane explain to you why  
23 Mr. Kwok wanted to transfer the apartment into  
24 his son's name?

25 A. No.



1 ULLMAN

2 Q. At any point did you gain an  
3 understanding or have a view as to why Mr. Kwok  
4 wanted to do this?

5 A. Repeat that again. Did you say at  
6 any point?

7 Q. At any point did you gain an  
8 understanding or have a view as to why Mr. Kwok  
9 wanted to make this transfer to his son?

10 A. Up to and including that date,  
11 right? 2016, not going forward? You're asking  
12 that question with regard to now in 2018 or are  
13 you saying in 2016?

14 Q. Well, let's start in 2016.

15 A. No, I did not know in 2016.

16 Q. Okay. At any point did you form a  
17 view as to why Mr. Kwok made this request?

18 A. Yes, after -- yes.

19 Q. And what was that view?

20 A. When I started receiving copies of  
21 the suit regarding PAX, it made sense why -- it  
22 made sense to me why he was trying to move the  
23 asset around.

24 Q. Why did that make sense to you?

25 A. Well, because he didn't -- that was

1 ULLMAN

2 the only asset he had here in the United States  
3 that could be attached by an outside --  
4 somebody making a claim against him. So it  
5 would make sense that he would want to move it  
6 to somebody else, so that they couldn't get  
7 after it.

8 Q. At the time you had your  
9 conversation with Ms. Sloane, in around June of  
10 2016, do you recall whether the apartment was  
11 on the market at that time?

12 A. I'm not sure if it was at that time  
13 on the market.

14 Q. Has the apartment been on and off  
15 the market?

16 A. Yes.

17 Q. And do you have any understanding as  
18 to, when Mr. Kwok took it off the market, why  
19 he took it off?

20 A. No.

21 Q. Do you have any understanding as to,  
22 when he put it on, why he put it on other than  
23 the obvious that he wants to sell it?

24 A. That was the obvious.

25 Q. Do you have any idea why Ms. Sloane,

1 ULLMAN

2 whose task it was to sell the apartment, would  
3 be talking to you about trying to transfer  
4 ownership to the son?

5 A. I can only guess that either Miles  
6 Kwok or one of his representatives asked her to  
7 do that, to ask me.

8 (Ullman Exhibit 9, E-Mail Chain,  
9 Bates Stamped SN 0018 through 23, marked  
10 for identification.)

11 A. (Document review.)

12 Q. I have just handed you Exhibit 9,  
13 which is an e-mail chain Bates stamped SN 0018  
14 to SN 0023.

15 A. Yes.

16 Q. I'm also going to mark Exhibit 10,  
17 which is an e-mail chain between you and  
18 Ms. Sloane on June 28 of 2016.

19 (Ullman Exhibit 10, Two-Page E-Mail  
20 Chain, marked for identification.)

21 Q. And I would actually like to start,  
22 Mr. Ullman, if you don't mind, please, with  
23 Exhibit 10.

24 A. Okay.

25 Q. You see the first e-mail

1 ULLMAN

2 A. I don't think there was discussion,  
3 to the best of my recollection. It was just an  
4 informative that this was broached and that  
5 this is how we responded to it just to keep him  
6 appraised of what was going on -- apprised.

7 Q. So there has been no change to the  
8 ownership structure of the apartment?

9 A. There has not been. May I add to  
10 that?

11 Q. Yes.

12 A. Not that we know of.

13 Q. And why did you make that addition?

14 A. Because I'm not aware of any, but  
15 that doesn't mean it may not -- they may not  
16 have done that.

17 Q. Would they be permitted to do it?

18 A. No.

19 (Ullman Exhibit 12, E-Mail Chain,  
20 Bates Stamped SN 0278 through 284, marked  
21 for identification.)

22 Q. You have been handed Exhibit 12,  
23 Mr. Ullman.

24 A. Yes.

25 Q. And that is an e-mail exchange with

1 ULLMAN

2 Yvette Wong and you, SN 0278. The top e-mail  
3 is Monday, June 19, 2017.

4 Do you see that?

5 A. I do.

6 Q. You have a long chain. You're free  
7 to flip through it, but I'm going to direct  
8 your attention, at first, to the last e-mail --  
9 first e-mail in time, last e-mail on the page  
10 00284.

11 And do you see point 5, "I was told  
12 that our contact person to Sherry is my  
13 principle {sic} himself, again for the  
14 convenience of family, could we change this  
15 person to be my principle's {sic} son."

16 Do you see that?

17 A. I do.

18 Q. Do you recall that, in or around  
19 2017, there was a request made to change the  
20 contact person at The Sherry-Netherland from  
21 Mr. Kwok to Mr. Kwok's son?

22 A. As the contact person, yes.

23 Q. And what do you recall about that?

24 A. I recall them requesting that, and I  
25 would imagine I said we have no problem using

1 ULLMAN

2 him as the contact person, but that doesn't  
3 have any legal standing other than that's who  
4 they want us to contact instead of the others,  
5 meaning either Mr. Kwok or one of his  
6 representatives.

7 So his son would just become another  
8 representative, that we should get in touch  
9 with him if there's any issues, but it's not a  
10 legally binding that he -- that it was his  
11 asset, so to speak.

12 Q. Did you have a view that by making  
13 this request they were somehow trying to end  
14 around or circumvent the decision you had made  
15 earlier that he couldn't transfer the apartment  
16 to the son?

17 A. I had an idea that that's what they  
18 were trying to do, yes.

19 Q. Why did you have that idea?

20 A. Because of the conversations I had  
21 before and gave them an outline of why they  
22 couldn't do it, and they were still trying to  
23 figure out a way -- I was assuming they were  
24 trying to figure out a way so that they could  
25 get the son in charge of the asset and remove

1 ULLMAN

2 the father from it. It was a premonition from  
3 the conversations.

4 Q. Was the contact person ever changed?

5 A. Not to his son. I mean, the contact  
6 person from Yvette to Brenda, if that's --  
7 that's been changed, but it was never changed  
8 to his son.

9 Q. Did you have any discussions with  
10 anybody regarding this request to change the  
11 contact person, other than Yvette, of course?

12 A. With our counsel, I would imagine.

13 Q. Do you still communicate with  
14 Yvette?

15 A. She may have -- I may have  
16 communicated with her recently. I don't even  
17 recall if it was Yvette or Brenda. I think  
18 Yvette got involved in something. She said she  
19 was moving on, if memory serves me going back  
20 when she left, she was working on office stuff  
21 and there was the house manager and that was  
22 Brenda, and that's who I should go through.

23 Q. Do you remember when that last  
24 conversation with Yvette was?

25 A. I don't.

1 ULLMAN

2 Q. Was it by e-mail?

3 A. I believe so.

4 Q. Do you know whether or not it was  
5 this -- if you look at SN 0278 the top, do you  
6 remember whether or not your last communication  
7 with her was at the same Yvetteyue423 e-mail  
8 address or if she used another e-mail address?

9 A. I believe they changed their e-mail  
10 address to something Spring. The newer e-mails  
11 are -- I don't remember exactly what it is.  
12 There was the Kwok office and then there's  
13 something Spring that sticks in my mind.

14 Q. How about Golden Spring?

15 A. Golden Spring, thank you.

16 Q. That sounds familiar?

17 A. At least I had -- yeah, got the  
18 Spring part right.

19 And I'm not sure when my last  
20 communication was with Yvette. I have to go  
21 back and look.

22 Q. So you communicate with Mr. Kwok's  
23 representatives about the apartment through a  
24 Golden Spring e-mail address?

25 A. Yes.



1 ULLMAN

2 Q. All right. So let's start with  
3 Exhibit 15, and I will represent to you that  
4 this is a brief filed by Mr. Kwok in our case  
5 and that the affidavit was a exhibit supporting  
6 the brief that Mr. Kwok also filed.

7 A. Okay.

8 Q. And I would like to direct your  
9 attention to page 4 of the brief, Exhibit 15,  
10 and I'm going to read in that first full  
11 paragraph starting with the third sentence.

12 A. Wait a minute. Let me just get to  
13 the page.

14 Q. Sure. No problem. Take your time.

15 A. No, I'm not.

16 Q. Page 4 of --

17 MR. SARNOFF: Of the brief.

18 Q. Of the brief.

19 A. Yeah, I'm on 15.

20 Q. Okay. Yep. Page 4. And do you see  
21 the paragraph at the top says, "While PAX  
22 fails" -- "What PAX fails however?"

23 A. "What PAX fails to mention,  
24 however"?

25 Q. Yes.

1 ULLMAN

2 A. Yep.

3 Q. So I'm going down to the fourth  
4 line, "PAX also fails to disclose that the  
5 assets of Genever BVI are entirely pledged to a  
6 third party."

7 Do you see that?

8 A. Yes.

9 Q. And then it cites the Wang  
10 affidavit.

11 Do you see that?

12 A. Yes.

13 Q. And then it says, "A certificate of  
14 registration of charge confirms that pursuant  
15 to a pledge and security agreement entered into  
16 on or about May 2015 -- and before any action  
17 was taken by PAX -- the assets of Genever BVI,  
18 which by virtue of its ownership of Genever USA  
19 include the apartment, were pledged to an  
20 entity named Roscalitar 2, an exempted company  
21 incorporated in the Cayman Islands."

22 Do you see that?

23 A. Yes.

24 Q. And then do you see the last  
25 paragraph on that section says, "In other

1 ULLMAN

2 words, the property PAX ultimately seeks to  
3 attach -- the apartment and Genever USA --  
4 cannot be used as collateral in this action as  
5 another non-related entity, Roscalitar 2, not  
6 associated with Kwok has a superior and  
7 already-existing claim on both by virtue of a  
8 lien against all assets of Genever BVI."

9 Do you see that?

10 A. Yes.

11 Q. Were those among the statements you  
12 read that led you to believe that Mr. Kwok had  
13 violated the no pledge provision of the  
14 proprietary lease and the agreement and consent  
15 with respect to shares?

16 A. Yes.

17 Q. Now, if I can direct your attention  
18 to page 9, please, of the same document. In  
19 the second paragraph, six lines down it says,  
20 "While Kwok is the sole shareholder of Genever  
21 BVI, since May 2015, the assets of Genever  
22 BVI -- which by virtue of its ownership of  
23 Genever USA include the apartment -- have been  
24 pledged in their entirety to Roscalitar 2, an  
25 unrelated third party not owned by Kwok."

1 ULLMAN

2 And then two sentences later,  
3 "Because they are owned by Genever BVI,  
4 Roscalitar 2 has the superior claim to both  
5 Genever USA and the apartment as a result of  
6 the May 2015 pledge and security agreement  
7 entered into between Genever BVI and Roscalitar  
8 2. In other words, any rights PAX claims it  
9 might have to attach either Genever USA or the  
10 apartment are subordinate to the  
11 already-existing lien imposed by Roscalitar 2."

12 Do you see that?

13 A. Yes.

14 Q. And are those among the statements  
15 that, when you read them, made you understand  
16 that Kwok had violated the lease and the  
17 agreement and consent with respect to the  
18 shares of the lease?

19 A. Yes.

20 Q. Exhibit 16, please, is the affidavit  
21 of Yan Ping Wang.

22 A. Hold on one second.

23 Q. Sure.

24 A. Okay. Go ahead. Thank you.

25 Q. Thank you, Mr. Ullman. Sorry about

1 ULLMAN

2 that.

3 Paragraph 5 of the Wang affidavit,  
4 the second -- third sentence, "Annexed hereto  
5 as Exhibit B is a true and correct copy of a  
6 certificate of registration of charge  
7 confirming that the assets of Genever BVI,  
8 which by virtue of its ownership of Genever USA  
9 include the apartment, were pledged to  
10 Roscalitar 2 in or about May of 2015."

11 Do you see that?

12 A. Yes.

13 Q. Was that one of the statements that  
14 you read that helped you form the belief that  
15 Mr. Kwok had pledged -- had violated his  
16 agreements with The Sherry-Netherland?

17 A. Yes.

18 Q. Looking at the statements that we  
19 just went over in Exhibit 15 and Exhibit 16, do  
20 you have any doubt in your mind that Mr. Kwok's  
21 papers represented to the court that the  
22 apartment had been pledged?

23 A. Yes.

24 Q. Let me --

25 A. I'm sorry. Go ahead. Repeat the

1 ULLMAN

2 the appraiser?

3 A. Uh-huh.

4 Q. Yes?

5 A. Yes. I'm sorry.

6 Q. No problem.

7 Do you have any idea why Ms. Sloane  
8 did that?

9 A. I have no idea.

10 Q. Did you ever confront her about it?

11 A. No. I probably have not spoken to  
12 her since.

13 Q. How did you find out that the  
14 appraiser was not, in fact, working for  
15 Mr. Kwok and that Ms. Sloane was lying?

16 A. Because I had an idea of who the  
17 purchaser was, and there were questions that  
18 led me to believe that actually this person may  
19 be working for the potential purchaser and not  
20 for Mr. Kwok.

21 Q. About how long ago was this?

22 A. Four months ago, four to five months  
23 ago. I'm guessing.

24 Q. May?

25 A. Could have been May. I'd have to

1 ULLMAN

2 look in my notes. I probably have it in my  
3 notes. It could be May. Yeah, May could have  
4 been.

5 Q. May sounds right?

6 A. Yeah.

7 Q. Do you think Mr. Kwok was and  
8 Ms. Sloane were trying to conceal the fact that  
9 they were close to selling the apartment?

10 A. I don't know.

11 Q. Can you think of any other reason  
12 why they wouldn't tell you -- sorry, if I can  
13 just finish the question.

14 Can you think of any other reason  
15 why they would lie to you about the fact that  
16 the appraiser had actually been hired by a  
17 prospective purchaser?

18 A. No.

19 Q. Are there other instances in which  
20 Mr. Kwok or his people have made  
21 misrepresentations to you or to anyone at The  
22 Sherry-Netherland?

23 A. No, not that I know of.

24 MR. MOSS: Can we go off the record?

25 THE VIDEOGRAPHER: We are now off

1 ULLMAN

2 the record at 2:34 p.m.

3 (Recess taken.)

4 THE VIDEOGRAPHER: We are now back  
5 on the record at 2:41 p.m.

6 BY MR. MOSS:

7 Q. Mr. Ullman, you testified earlier  
8 about a few misrepresentations that you believe  
9 Kwok or his representatives have made to you  
10 and The Sherry-Netherland during the last  
11 several years, right?

12 A. Yes.

13 Q. About how many tenants have you  
14 dealt with in your 40-year history in the hotel  
15 space?

16 A. How many tenants?

17 Q. How many residents of hotels?

18 A. Many, hundred.

19 Q. And have any one of those hundreds  
20 made misrepresentations to you or to your hotel  
21 employer to the extent that Mr. Kwok and his  
22 representatives have?

23 A. No.

24 Q. I'm going to hand you what's been  
25 marked as Exhibit 20. This will be,



1 ULLMAN

2 mercifully, the last exhibit.

3 A. Okay. Thank you.

4 (Ullman Exhibit 20, Transcript in  
5 Pacific Alliance v. Wan, marked for  
6 identification.)

7 Q. Now, this, Mr. Ullman, is a  
8 transcript of a hearing that we had in our  
9 litigation in front of the Supreme Court in New  
10 York on June 27, 2018.

11 And I would like to direct your  
12 attention to page 24, and this is in a part of  
13 the transcript, I will represent to you, where  
14 we're talking about the pledge or the lien that  
15 we were talking about earlier, and I will also  
16 represent to you that Mr. Harmon is one of the  
17 lawyers who's representing Mr. Kwok.

18 I would like to direct your  
19 attention to the bottom where Mr. Harmon  
20 states, "I don't want to dance on semantics.  
21 I'm not taking an exception. For the purpose  
22 of the integrity of the Court and myself and  
23 the papers that we submit I want Your Honor to  
24 be aware that the situs of the most important  
25 filing, which is the British Virgin Islands,

1 ULLMAN

2 that lien is still in effect today."

3 Do you see that?

4 A. Yes.

5 Q. Now, can you reconcile a statement  
6 that that lien is in effect with the statement  
7 that we read in the letter to you that the  
8 apartment was never pledged?

9 A. No.

10 Q. Mr. Ullman, I greatly appreciate  
11 your time. Thank you. I believe Ms. Searles  
12 will have some questions, and I don't have  
13 anything further for you at this time pending  
14 questions from Ms. Searles, but if she asks  
15 questions, I may reengage a little bit.

16 A. That's fine.

17 EXAMINATION BY

18 MS. SEARLES:

19 Q. Good afternoon, Mr. Ullman.

20 A. Good afternoon.

21 Q. I have just a very few questions.

22 Have you ever been contacted by  
23 anyone at PAX regarding this particular  
24 litigation?

25 A. No.

C E R T I F I C A T E

STATE OF NEW YORK )

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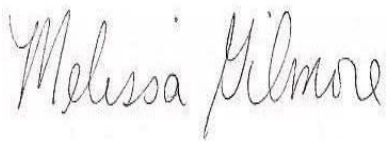
COUNTY OF RICHMOND )

I, MELISSA GILMORE, a Notary Public  
within and for the State of New York, do hereby  
certify:

That MICHAEL ULLMAN, the witness  
whose deposition is hereinbefore set forth, was  
duly sworn by me and that such deposition is a  
true record of the testimony given by such  
witness.

I further certify that I am not  
related to any of the parties to this action by  
blood or marriage; and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 3rd day of October, 2018.



MELISSA GILMORE